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Date: December 4, 2003

Time:

Deliver To: Examiner Bernard E. Souw  
T.C./A.U.: 2881

From: Christopher S. Daly, Esq.

Company: USPTO

Facsimile Number: 703-872-3919

Telephone Number: 703-305-0149

## MESSAGE

RE:

U.S. Patent Application of David M. Pepper and Dennis C. Jones  
Entitled: ROBUST INFRARED COUNTERMEASURE SYSTEM AND METHOD  
Application No. 09/837,733  
Filing Date: April 18, 2001  
DCM Case No: RTN-154PUS

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Client Matter No.: RTN-154PUS

PTO/SB/21 (04-03) modified

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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<b>TRANSMITTAL FORM</b> <i>(to be used for all correspondence after initial filing)</i>		Application Number <b>09/837,733</b>
Total Number of Pages in This Submission <b>3</b>	Filing Date <b>April 18, 2001</b>	
	First Named Inventor <b>David M. Pepper</b>	
	Art Unit <b>2881</b>	
	Examiner Name <b>Bernard E. Souw</b>	
	Attorney Docket Number <b>RTN-154PUS</b>	

<b>ENCLOSURES</b> <i>(Check all that apply)</i>	
<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Assignment Papers (for an Application)
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Drawing(s)
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<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Petition to Convert to a Provisional Application
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address
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<b>Remarks</b>	
In the event a petition for extension of time is required by this paper and not otherwise provided, such petition is hereby made and authorization is provided herewith to charge deposit account No. 50-0845 for the cost of such extension.	

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm or Individual <b>Christopher S. Daly</b>	Reg. No. 37,303
Daly, Crowley & Mofford, LLP	
Signature	
Date	

**CERTIFICATE OF TRANSMISSION/FACSIMILE**

I hereby certify that this correspondence is being submitted via facsimile to 703-872-9313, Examiner Bernard E. Souw, T.C./A.U. 2881, Commissioner for Patents, Alexandria, VA 22312-1450 on the date set forth below.

Typed or printed

*Christopher S. Daly* Date **12/4/03**

Signature

This collection of information is required by 37 CFR 1.5. The information is required to carry out a Statute or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden may be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

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PATENT  
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 09/837,733  
Applicant : David M. Pepper et al.  
Filed : April 18, 2001  
T.C./A.U. : 2881  
Examiner : Bernard E. Souw

Confirmation No.: 9083

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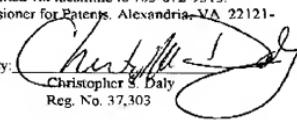
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Date of Signature  
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By:

  
Christopher S. Daly  
Reg. No. 37,303

Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

Sir:

LETTER UNDER MPEP 707.05(g) AND 710.06

On November 13, 2003, Applicant's representative received an Office Action dated November 10, 2003, in connection with the above-identified patent application.

On Page 3, paragraph 5 of the Office Action, the Examiner relied on a reference and provided the following citation: "Arimoto et al. (SPIE Proceedings Vol. 2990, Free Space Laser Communications Technologies IX, San Jose, CA, February 1997)."

Applicant has reviewed the Office Action and all of the papers included with the Office Action but does not find a reference with the citation provided by the Examiner. Also, this

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reference is not listed in any form PTO 1449 submitted by Applicant, nor on any form PTO-892 supplied by the Examiner. Applicant thus submits that the Examiner has either provided an incorrect citation of this reference or the reference was omitted from the Office Action mailed to the Applicant.

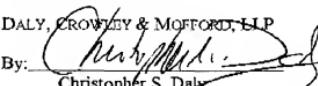
Accordingly, Applicant respectfully requests that the Examiner either: (1) provide the correct citation; or (2) provide a copy of the omitted reference. Also, in accordance with MPEP 710.06, Applicant requests that the Examiner re-start the previously set period for reply to run from the date the error is corrected.

If the Examiner has any questions concerning this letter or this application, he is respectfully invited to contact the undersigned attorney.

In the event any additional fee is required, please charge such amount to the Patent and Trademark Office Deposit Account No. 50-0845.

Respectfully submitted,

Dated: 12/4/03

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